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Committee on Homeland Security,
Subcommittee on management, Investigations and Oversight

"READY TO LEAD?
DHS AND THE NEXT MAJOR CATASTROPHE"

A Statement by

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Chairman Carney, ranking member Rogers, and members of the subcommittee, thank you for inviting me to testify on the readiness of the Department of Homeland Security to manage the next catastrophe. It is a subject of critical importance and I am honored to have the opportunity to share my views with you.

I would like to focus in my remarks on where DHS has made progress toward preparing to lead during the next catastrophe and where there are still problem areas, and offer some recommendations on how to address the challenges that remain. I will focus on how DHS – and the federal government as a whole – is organized to manage catastrophic events, whether roles and missions for incident management are clear and well understood, and whether the processes we have in place to prepare for and respond to a catastrophe are sufficient.

In my view, America is not ready for the next catastrophe. We are not ready as a nation – it is not just DHS and the rest of the federal government. We have certainly made progress since the September 11 attacks and the response to Hurricane Katrina in 2005, but there are still a number of very pressing problem areas that urgently need to be fixed. This is a national challenge and one that concerns not just the federal government but state and local governments, the private sector, the nonprofit sector and individual citizens, but I am going to limit my comments for this hearing to primarily what needs to be done at the federal level. I would like to focus on seven problem areas and make some recommendations in each area that I believe would make the nation better prepared for the next catastrophe, whatever it might be. One of my colleagues at CSIS, Anne Witkowsky, and I just published a report last week called *Managing the Next Catastrophe: Ready (Or Not)* that discusses these recommendations and several more in much more detail. It can be found on the CSIS website, which is www.csis.org.

Progress

Before leaping into a discussion of what still needs to be done, it is important to note at least briefly where DHS has made progress in terms of preparing for future catastrophes. Although

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the Department has a very complex and difficult mission and is a very young bureaucracy, it has taken steps to improve the preparedness of this nation. DHS published the new National Response Framework – the successor to the National Response Plan – in January 2008. The NRF describes the basic framework for how the federal government will work with state and local entities during disasters. The NRF is shorter, clearer and easier to read than its predecessors, and should help stakeholders at all levels gain a better understanding of what they are supposed to do during a crisis, and what organizations will be in place to coordinate response efforts.

At the direction of Congress, DHS also has taken steps to strengthen FEMA. FEMA's relationship to the rest of DHS has been clarified, it now has direct responsibility for most preparedness issues, and it is revitalizing its regional offices throughout the country, which should help synchronize federal, state and local activities. Of particular note is the emphasis FEMA and other DHS components have placed on working with state and local governments to improve planning and preparedness for hurricanes and other challenges such as pandemic flu.

In the last two years, DHS also has made catastrophic planning a major focus area and has devoted considerable time and energy to planning issues. In 2006 the Department created the Incident Management Planning Team to lead an interagency effort to build plans designed to address the challenges described in the 15 National Planning Scenarios. FEMA has its own planning cell, the Operational Planning Unit. In December 2007 the Homeland Security Council issued Annex 1 to HSPD-8, which calls for DHS to lead the development of a new Integrated Planning System to build a more formal and standardized planning system for catastrophes. It is very positive that DHS, and to a degree the larger interagency, has placed so much focus on strengthening catastrophic planning and trying to engage the entire interagency in this process. At the same time, despite all of the time and energy that has been spent on planning in the last 2 years, there is still little to show for these efforts in terms of concrete plans that government leaders could take off the shelf and adapt for use during a crisis.

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Problems

Despite progress that has been made, a number of problems remain that require the urgent attention of the next President and his administration.

First, because the mission of securing the homeland and preparing to manage a domestic catastrophe is inherently an interagency mission at the federal level – and no one Cabinet Secretary has authority over another – it is essential the White House play a strong role in these areas. To date, this White House has not played a strong enough role in developing preparedness policies or in overseeing their implementation. The Homeland Security Council and its staff is overshadowed by the National Security Council organization, and it was not reassuring that the position of Homeland Security Adviser was left vacant recently for about four months.

The next administration would be well served to merge the Homeland Security Council and National Security Council and their staffs into a single strong organization that plays a central role in developing federal homeland security policy and in overseeing its implementation. A newly merged, strong NSC would be the empowered partner that DHS needs to ensure that all members of the interagency are working together to build integrated plans for catastrophes and developing the necessary capabilities to respond quickly and effectively during a crisis.

Second, although DHS is named in HSPD-5 as the federal coordinator for management of a domestic incident, DHS is not sufficiently empowered for this role, in part because on paper and in practice, federal relationships in this area are still unclear and somewhat confusing. While I do not advocate that the Secretary of Homeland Security be given directive authority over other Cabinet officials, I do argue the Secretary of Homeland Security should be the "first among equals" when it comes to preparing for and managing catastrophes. While the Homeland Security Act of 2002 states that a primary mission of DHS is to prevent terrorist attacks within

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the United States, HSPD-5 states that the Attorney General will coordinate the activities of other members of the law enforcement community to prevent terrorist attacks. The division of labor between DHS and the Department of Justice, in particular the FBI, is not entirely clear, most notably in terms of who during a catastrophe has the authority, short of the President, to resolve conflicts between law enforcement objectives and other equally crucial objectives, such as saving lives. In a similar vein, HSPD-5 makes clear that short of direction from the President, the Secretary of Defense has considerable leeway to determine whether to provide military forces for civil support missions. If a catastrophe were to occur tomorrow, the Secretary of Homeland Security does not have the authority to immediately require the Defense Department to provide military forces to aid in the response. In many instances this lack of official authority might never become an issue – DoD might well lean forward to assist DHS – but if there were any disagreement about priorities, time spent resolving that disagreement and bringing it to the President translates into lives lost on the ground.

The next President, with help from Congress, should make clear that as the federal coordinator for incident management, the Secretary of Homeland Security is first among equals relative to other Cabinet officials during a major domestic incident. HSPD-5 should be revised to clarify federal roles and responsibilities, particularly those of DHS, the Department of Justice and the Department of Defense. The Secretary of Defense should retain command and control over military forces, and the Attorney General should have primacy in law enforcement issues, but a revised HSPD-5 should make clear that the responsibility for managing competing priorities belongs to the Secretary of Homeland Security during a catastrophe.

Although our form of government does not allow for unity of command at the federal level in a military sense, the chain of command inside DHS does need to be clarified. Even with the new NRF and the Post-Katrina Emergency Management Reform Act, it is not clear how the FEMA Administrator relates to the Secretary of Homeland Security during a crisis, and the Principal Federal Official (PFO) does not have authority over the Federal Coordinating Officer (FCO),

despite all of the confusion about the roles of the PFO and FCO during the response to Hurricane Katrina.

The next President and Congress should clarify the DHS chain of command during catastrophes. As the federal coordinator for incident management, the Secretary of Homeland Security is the official accountable during a crisis to the President. The FEMA Administrator is the principal adviser to the President and the Secretary of Homeland Security on emergency management and can advise the President directly on these matters, but as the overall incident manager, the Secretary of Homeland Security has the authority to put the advice of the FEMA Administrator into a larger context. On the ground, there should be a single DHS senior official that reports to the Secretary through the FEMA Administrator. Clearly during catastrophes the senior DHS official that is managing the political aspects of the crisis and reaching out to the public and press cannot also be the person who is coordinating the actual provision of federal assistance, but that operational person needs to report to the senior DHS person on the ground. You cannot have unity of effort if there are two senior DHS officials on the ground reporting to different people in Washington, without any authority over each other. In our report we call for a new position – the Lead Federal Coordinator – who reports to the Secretary through the FEMA Administrator and who has a deputy with the authorities of the FCO. It doesn't matter what you call this – you could retain the title of Principal Federal Official or eliminate the PFO position and retain only the FCO title – but the key is to have DHS personnel on the ground speaking with one voice, and only one senior DHS official reporting back to Washington.

Third, DHS's ability to manage the next catastrophe is constrained by the fact that the traditional Stafford Act mechanisms to respond to disasters are probably not sufficient to manage an actual catastrophe – something like the detonation of a nuclear device or the simultaneous explosions of dirty bombs in a handful of cities around the country. The formal process of making a presidential declaration of emergency, requiring a request for assistance from a state government and then parsing out those requests to the various federal agencies to be filled is simply too slow

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and linear to be effective during a catastrophe. In a similar vein, while the Stafford Act gives the federal government the authority to provide accelerated assistance to save lives, prevent suffering and mitigate severe damage, as a matter of policy, DHS and other agencies cannot forward deploy assets into a state without permission from the state government. Moving beyond traditional Stafford Act assistance mechanisms is a very sensitive area because it gets into the balance of power between the federal government and those of the fifty states, but given the threats we face in the post-9/11 environment, it is important that we start talking more openly about these issues.

The next Administration should work with Congress and state governors to develop a more streamlined process to provide federal help that balances the sovereign rights of the states. A minimalist approach might be to explore how to revise current policies to better reflect the authority the Stafford Act already grants the federal government to provide accelerated assistance. This could include development of policies that would enable the federal government under certain extreme circumstances to deploy directly into states and begin directing federal assets. A more fundamental approach might be to amend an existing law, such as the Defense Against Weapons of Mass Destruction Act, and create a sort of analogue to the Stafford Act explicitly designed to address the provision of federal assistance during a catastrophe when a state government is incapacitated and unable to carry out some or all of its functions.

Fourth, for a variety of reasons, the federal government has yet to put in a place a working process to develop detailed plans for how to respond to various catastrophes. We have the 15 National Planning Scenarios, but in terms of plans all we have is the NRF, which as you know is really just a blueprint for organizational relationships. The NRF is not a plan in the sense of describing what tasks need to be done, what capabilities are needed to execute those tasks, and how quickly capabilities need to be put on-scene. To truly be prepared for the next catastrophe, DHS and the rest of the interagency – not to mention state governments – need to have these

kinds of more detailed plans, which would at least provide a baseline for action that could be modified as needed during a crisis.

Once again, developing these kinds of plans is fundamentally an interagency undertaking. As such, a merged NSC and its staff need to take a leadership role in ensuring these plans are developed, and just as importantly, that the capabilities they call for are fed into the resourcing process for the federal government. Plans developed at the federal level need to be linked to plans at the state and local level. The FEMA regional offices, if fully realized, provide a "one stop shop" for that kind of coordination at the regional level, and the very new effort to build Task Forces for Emergency Readiness at the state level is another mechanism that could link state and federal plans together in a much more meaningful way than we have achieved so far.

Fifth, and very closely related to the planning issue, is the lack of defined requirements or capabilities for what the federal government needs to respond to catastrophes. CSIS has highlighted this shortcoming in reports published in 2005 and 2006 – and in our new report, and the Commission on National Guard and Reserves also highlighted this problem, as has the GAO in numerous reports. DHS has got to take the lead in identifying what capabilities are needed, what the federal government already has, what gaps might need to be filled, and which agencies should be responsible for which capabilities. OMB and NSC together need to track this process and ensure that agency budgets submitted to Congress include funding for identified requirements. Until we get these requirements defined, Cabinet agencies are unlikely to invest in developing them and hence it is very hard to make progress toward being prepared, no matter what organizational charts and other processes we have in place.

DHS has many internal challenges, but a major external drag on its effectiveness and its ability to prepare for future catastrophes is the byzantine oversight structure it faces in Congress. DHS is overseen by more than 70 committees and subcommittees – maybe more. While about 80% of DoD's oversight is concentrated in six committees, every single Senator and almost every

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member of the House of Representatives have some degree of oversight over DHS business. This incredibly complicated oversight structure undercuts the effectiveness of the federal homeland security enterprise in a number of ways. For example, senior DHS officials spend an inordinate time on the Hill trying to be responsive to their many masters. Oversight is critical, but at the same time DHS leaders must have sufficient time to focus on their primary responsibility, which is to develop and oversee the implementation of policies to ensure the security of the homeland and prevent terrorist attacks. At the same time, the lack of a center of gravity in the House and Senate for oversight of DHS has undermined the ability of Congress to conduct this very central responsibility and weakened Congressional efforts to develop a core group of Members with deep expertise in homeland security matters.

Many have called for reform of the Congressional oversight process for homeland security, most notably the 9/11 Commission. Efforts to streamline the oversight structure to date have not made much progress, but there is no question that Congress could greatly strengthen the federal government's homeland security enterprise if it substantially simplified its oversight structure in this area.

Although I am recommending a number of changes for DHS, the final problem area I want to highlight is the fact that the constant reorganizations of DHS that have characterized its short history to date have undercut its effectiveness. DHS has experienced so much bureaucratic turbulence it is a wonder any progress has been made. The constant battles between FEMA and DHS headquarters have left a lot of blood on the floor, the morale of the DHS workforce tends to rank among the lowest in the entire government, and turnover of senior DHS officials has been substantial.

DHS's generally poor reputation in the executive branch and in Congress will make it extremely tempting for a new administration to launch a massive reorganization. That said, I believe that yet another dramatic reorganization of DHS would be among one of the worst ways to try to

improve the nation's preparedness. Major structural reforms right away would be highly disruptive, painfully time-consuming and at the end of the day would probably yield little in the way of results. DHS should be allowed to mature. DoD took 40 years to evolve from the War Department into the Defense Department, and it took another 20 years for the Goldwater-Nichols reforms to transform DoD into the integrated agency it is today. Without question DHS has to make more progress in the next 8 years than it has in the last five years or so, but reorganization is not a panacea.

Concluding Thoughts

I've focused on problems in my statement, but it is important not to lose sight of all that DHS has done, particularly in light of all of the obstacles it faces as a new and very large federal department. At the same time, what matters to most Americans is not how far we have come, but how far we still have to go in terms of being prepared for the next catastrophe. Implementing the recommendations I've discussed this morning would not solve all of the problems we face in terms of improving our preparedness, but they would move the federal government much closer to where it needs to be in this area. Thank you very much for the opportunity to share these views with you; it is a privilege to be asked to comment on such an important issue for our country.

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